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Refugee protection:  
The international context







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**Background Paper**

**BP-280E**

**REFUGEE PROTECTION:  
THE INTERNATIONAL CONTEXT**

**Margaret Young  
Law and Government Division**

**November 1991**



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Cat. No. YM32-2-280E

ISBN 0-660-14532-4


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PUBLIÉ EN FRANÇAIS



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## REFUGEE PROTECTION: THE INTERNATIONAL CONTEXT

There are many people in the world whose lives, liberty or security are in jeopardy. Some are threatened by political oppression, some by natural disasters, others by economic conditions that make even a subsistence existence difficult or impossible. Still others flee war or civil strife. Such situations force many individuals to leave their homes to seek refuge and security elsewhere, either in other countries or in different parts of their own country. In a general way, all such people may be called "refugees." In international and national legal systems and practice, however, the term carries a much more limited and technical meaning. Those who fall under the rubric "refugees" in its more technical sense - currently some 17-18 million people worldwide - are the subject of this paper, which provides an overview of the international system that has developed to protect the human rights of refugees.

### INTERNATIONAL LEGAL DOCUMENT

The 1951 United Nations *Convention Relating to the Status of Refugees* is the only universal document governing the treatment of refugees by states in whose territories the refugees are found. Well over 100 states have acceded to the Convention, the most important parts of which are its definition of "refugee" and its prohibition against *refoulement*.

The definition of a refugee in Article 1 of the Convention is a person who:

owing to wellfounded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; ...



Article 33 goes to the heart of a state's duty to protect the human rights of refugees, although it is important to note that the protection granted has also become part of customary international law. Entitled "Prohibition of Expulsion or Return (*Refoulement*)," Article 33 states:

No Contracting State shall expel or return (*refouler*) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

- It is important to recognize what the Convention does not do:
- It does not create an expansive definition of "refugee." The rights of refugees under the Convention arise only for those who have crossed an international boundary in consequence of persecution on racial, religious, political or social grounds. Those whose need for refuge flows from other than what are essentially political origins - that is, from war, famine, flood, statelessness, poverty and so on - and who may be of great humanitarian concern, have no claim on other states that can be asserted by reliance on the Convention.
  - Although both customary international law and the Convention require that contracting states not return (*refouler*) refugees to the country where they fear persecution, they are not required to permit them to stay permanently and they are not prohibited from returning them to a third country, even though *refoulement* is ultimately possible as a result of this practice.
  - The right of refugees not to be *refouled* is not absolute. A state is entitled to place its own security interests ahead of the rights of the refugee; it also has the right to refuse refuge to people convicted of serious crimes and who thereby pose a danger to the receiving society.

There are also two regional agreements, for Africa and for Central America, that extend the meaning of the concept of refugee for their signatory states in an attempt to respond to their particular needs. In actual fact, many Western countries, to varying degrees and under varying conditions, also extend protection to a broader range of





individuals than mandated by the Convention, even though such individuals are not recognized as refugees under the narrow Convention definition.

## THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

### A. The Mandate

In 1950, with the adoption by the General Assembly of the Statute of the Office of the United Nations High Commissioner for Refugees (UNHCR), the current institutional framework for the protection of refugees came into being. Currently, UNHCR's staff number over 2,000 and work in over 80 different countries as well as at headquarters in Geneva. The general mandate of UNHCR is twofold: to protect refugees and to seek permanent solutions for their problems.

### B. Fulfilling the Mandate

#### 1. Protection

The characteristic that most distinguishes Convention refugees from other migrants (for example, those seeking better standards of living, often confusingly called "economic refugees") is their need for protection. In crossing an international border and being unwilling or unable to return, refugees place themselves outside of the realm of protection normally provided by a state to its citizens. The most central aspect of the role of UNHCR, then, is to assure that refugees receive that protection: by providing protection against *refoulement*, by providing for their basic physical needs (for shelter, food and so on), and by ensuring respect for other basic human rights.

#### 2. Finding Durable Solutions

There is a commonly accepted hierarchy of permanent solutions to refugees' problems: repatriation to the country from which the refugees fled, integration into the country of first asylum, and resettlement in another country.



a. Repatriation

Repatriation can be a risky business. There can be serious threats to refugees who return to areas where the situation that caused them to leave has not improved. Nevertheless, repatriation, when it is possible and provided it is undertaken voluntarily, is usually thought to be the best durable solution, since it permits refugees to re-integrate into familiar surroundings and culture. Many refugees repatriate on their own, but when movements are planned and organized UNHCR plays a key role in ensuring that returnees have accurate information about conditions in their former homeland, that the individuals are moving voluntarily and that their human rights will be protected. UNHCR also has a role to play in monitoring their treatment after return, and in assisting returnees to re-establish themselves. This assistance includes, depending on the circumstances, providing returnees with transit centres, grants, food, housing materials and agricultural implements to assist them in their initial year of return.

b. Local Integration

Whether a country to which refugees initially flee can ultimately integrate them into its economic and social fabric depends on a number of factors: the number of refugees, the economic and demographic structure of the country, the nature of its society (including racial and religious differences), the political and security situation, and the environmental impact of the newcomers.

Local integration can have benefits for the refugees, UNHCR and the host country. The establishment of refugee camps may be essential for emergency care, but ongoing camps often act as a disincentive to longer-term economic self-sufficiency, and refugees' resulting pride and self-respect. Camps are also very costly to operate year after year; thus, even partial self-sufficiency lightens the load on UNHCR. From the point of view of the host country, money spent on self-sufficiency projects also aids the country generally.

c. Resettlement Outside the Region

In some situations, where repatriation is impossible, and countries of first asylum are unwilling or unable to offer continuing





protection to refugees, resettlement, typically in developed Western countries, may be the only option available. Its use is circumscribed, however, by the availability of resettlement places and by the financial requirements of sponsorship. For example, each of the approximately 13,000 government-sponsored refugees that Canada is prepared to admit yearly (apart from privately-sponsored refugees) costs an average of \$10,000 to support and resettle in the country.

The Convention itself does not place on countries any duty to resettle refugees, although one clause of the Preamble does urge that states recognize the importance of an international approach to refugee problems. The largest resettlement movement in the post-war period has been that of the Indochinese refugees, which took place from the mid-1970s onward.

#### OTHER ORGANIZATIONS

Numerous international organizations play an important role, directly or indirectly, in assisting refugees. These organizations include the International Organization for Migration, the Red Cross, UNICEF, the World Food Program, the World Health Organization, and the UN Disaster Relief Organization.

In addition to international organizations, non-governmental organizations in various countries assist in the settlement of refugees and, particularly in Western countries, play an important advocacy role in asserting refugee rights, particularly when these appear to conflict with the interests of states as perceived by their governments. Such organizations can also be effective advocates of the rights of individual refugees who appear to have been treated unfairly or whose refugee claims appear to have been incorrectly assessed.

#### THE ROLE OF INDIVIDUAL STATES IN PROTECTING REFUGEES' HUMAN RIGHTS

It is an important, if self-evident, fact that refugees flee from and to individual countries, and are sometimes resettled in still

others. UNHCR has no independent authority to enter any state, even to monitor or assist in refugee camps, without the permission of the country in question. Individual states contribute to the protection of refugees' human rights in three main ways, through economic assistance, resettlement, and protection against *refoulement*.

#### A. Economic Assistance

Without financial assistance, many countries of first asylum, most of which are in the Third World, would be unable to shoulder their burdens, particularly where there have been mass influxes of refugees. Thus, financial assistance to UNHCR and to other humanitarian agencies is essential to enable them to deliver emergency aid and longer-term protection. Donations for food aid are also important.

#### B. Resettlement

As discussed above, resettlement in countries out of the region that generated the refugees is the least preferred durable solution, but is nevertheless sometimes unavoidable. The primary countries of resettlement in term of actual numbers accepted are the United States, Canada and Australia, but other countries also share the burden, with some concentrating on the hard-to-place refugees such as the disabled. As noted, the largest single resettlement effort in the last 40 years was that for Indochinese refugees.

It should be noted that providing resettlement opportunities for refugees does not threaten states' interests in the way that spontaneous arrivals do. States retain full sovereign rights on whether or not to admit refugees from abroad, on which people to admit, and on how many. They may select refugees on the basis of who will best settle in the country (as does Canada), or according to other criteria, as they wish. Spontaneous arrivals, on the other hand, permit the state to exercise few of those choices. The problems that this poses will be discussed below.





### C. Protection Against *Refoulement*

In addition to economic assistance and the provision of resettlement opportunities, a state's most important duty is to ensure that individuals are not forcibly returned to countries where they claim to have a well-founded fear of persecution. This protection can be temporary or long-term but it exists independently of the Convention as part of customary international law. The Convention itself is silent about procedures to be used to determine the *bona fides* of a refugee claim. Indeed, many signatories have no formal procedures at all, relying instead on UNHCR. Others, primarily Western countries, have developed administrative or quasi-judicial procedures to determine whether a claim should be recognized.

Refugee recognition is often bound up with politics and state requirements. Thus, it should not be surprising that overall refugee recognition rates vary from country to country, or that certain nationalities will enjoy more success than others in having their claims recognized.

### CURRENT THREATS TO THE HUMAN RIGHTS OF REFUGEES

Many of the threats to the human rights of refugees are those that have existed from time immemorial - repressive regimes, civil conflict, ethnic clashes, poverty, and so on. It is a truism to state that the world needs to pay more attention to these root causes of refugee movements. Meanwhile, refugees are with us now, and will be in the future. They will continue to be dealt with by the laws, institutions, and state practices that constitute the loose refugee protection "system" described above. In the past decade, however, a number of additional pressures have been placed upon the system and its component parts.

#### A. Migratory Pressures on Western Countries

In the last decade, European and North American countries have increasingly experienced increases in the numbers of individuals seeking asylum. In Canada, a system designed to handle small numbers of claimants was flooded in the 1980s, resulting in a backlog of some 95,000

claims by the end of 1988. (Currently, over 30,000 new claims per year are being received.)

Large influxes put significant pressures on determination systems designed to handle far fewer applicants. Moreover, many of those seeking asylum were perceived as migrants seeking immigration opportunities, rather than *bona fide* refugees. Others were seeking shelter for reasons relating to war or civil strife and therefore did not fall under the strict definition of refugee found in the Convention. Moreover, the higher the number of claimants, the more difficult it became to separate valid from invalid claims in an acceptable period of time.

Arrivals of refugee claimants are described as "spontaneous" in the sense that they occur outside normal immigration channels and in an unpredictable fashion. Even apart from the practical difficulties of dealing with relatively large numbers, such movements affect the ability of a sovereign state to control its borders and are seen as threatening on that ground alone. Even immigrant-receiving countries such as Canada became very concerned about control issues, particularly since it was clear that public support for a generous refugee program depended on its being controlled, with only genuine refugees being assisted.

In response to these migratory pressures, Western countries began in the 1980s to tighten up their determination systems and to introduce controls designed to deter spontaneous arrivals. Methods included more visa restrictions, fines on airlines that carried undocumented passengers, returning claimants to third countries, detention of claimants, and restricted rights to employment.

It should be realized that only a very small percentage of refugees ever leave their own region to claim asylum in the West. On the other hand, refugee determination systems in developed countries are individualized, bureaucratic, often lengthy, and very costly. Further, refugees become entitled to benefit from extensive social support systems paid for by taxpayers.

Indeed, although greatly increased migration has been discussed in terms of the recent restrictive response of governments and the threat this presents to genuine refugees, there is no doubt that





spontaneous arrivals in the West consume a disproportionate share of the world's resources devoted to refugees: in 1990 states spent ten times the amount of the entire budget of UNHCR on spontaneous arrivals.

Furthermore, it may be argued that those who arrive spontaneously in the West are not representative of the refugee population as a whole, being largely male, young, and resourceful enough to manipulate visa and control systems in order to travel to the West. Meanwhile, a disproportionate number of residents of refugee camps are children and women.

Despite these contradictions and difficulties, the concept of asylum remains at the heart of any system of refugee protection. In all Western countries, the challenge of the 1990s will continue to be how to streamline refugee determination systems without sacrificing fairness and reliability, and how to institute appropriate border controls without impairing the ability of individuals in genuine need to find refuge.

#### B. Shortage of International Resources

In 1990, as the number of refugees in the world continued to mount, UNHCR faced a financial crisis, with needs projected to exceed receipts by some US\$130 million. Budget cuts and an appeal to the international community ultimately resolved the crisis for the time being, but not before a number of core programs had been curtailed, impairing the organization's ability to provide assistance and solutions for refugees, particularly in Africa.

#### C. A Changing World

In the 40 years since UNHCR came into existence, the world has changed dramatically. The number of refugees has steadily increased, particularly in the last ten years, and, while a number of refugee problems have been solved, many more show no signs of resolution. Most of the world's refugees now originate in the Third World and do not necessarily fit the Convention's narrow definition of "refugee"; mass movements also defy the Convention's implied individualized approach to persecution. Moreover, as noted above, large scale migration from South to



North, and, potentially in significant numbers, from East to West, threatens the institution of asylum in the West. It will be continually necessary to adapt to these changes and respond to the current pressures on the system. In 1990, the UNHCR's Executive Committee established a working group to study the underlying causes of refugee and migratory movements and to examine all aspects of refugee protection today. No one, however, is suggesting that there are easy answers to these questions.









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Background Paper

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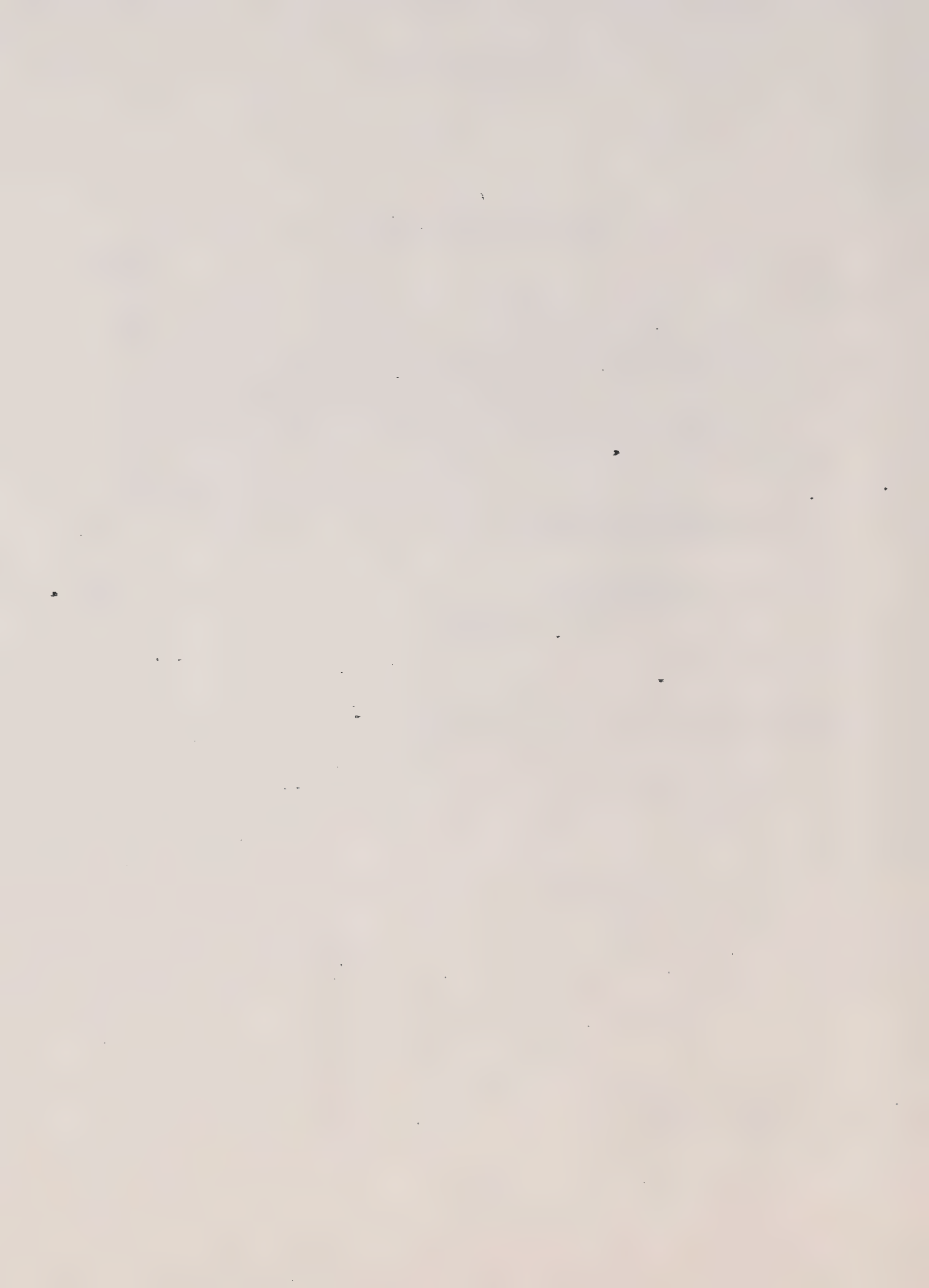
Catalogue No. YM32-2/280-1992-11E  
ISBN 0-660-14919-2

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The definition of a refugee in Article 1 of the Convention is a person who:

owing to wellfounded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; ...

Article 33 goes to the heart of a state's duty to protect the human rights of refugees, although it is important to note that the protection granted has also become part of customary international law. Entitled "Prohibition of Expulsion or Return (*Refoulement*)," Article 33 states:

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It is important to recognize what the Convention does not do:

- It does not create an expansive definition of "refugee." The rights of refugees under the Convention arise only for those who have crossed an international boundary in consequence of persecution on racial, religious, political or social grounds. Those whose need for refuge flows from other than what are essentially political origins - that is, from war, famine, flood, statelessness, poverty and so on - and who may be of great humanitarian concern, have no claim on other states that can be asserted by reliance on the Convention.
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## **THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES**

### **A. The Mandate**

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### **B. Fulfilling the Mandate**

#### **1. Protection**

The characteristic that most distinguishes Convention refugees from other migrants (for example, those seeking better standards of living, often confusingly called "economic refugees") is their need for protection. In crossing an international border and being unwilling or unable to return, refugees place themselves outside the realm of protection normally provided by a state to its citizens. The most central aspect of the role of UNHCR, then, is to ensure that refugees receive that protection by: providing protection against *refoulement*, providing for their basic physical needs (for shelter, food and so on), and ensuring respect for other basic human rights.

#### **2. Finding Durable Solutions**

There is a commonly accepted hierarchy of permanent solutions to refugees' problems: repatriation to the country from which the refugees fled, integration into the country of first asylum, and resettlement in another country.

### **a. Repatriation**

Repatriation can be a risky business. There can be serious threats to refugees who return to areas where the situation that caused them to leave has not improved. Nevertheless, repatriation, when it is possible and provided it is undertaken voluntarily, is usually thought to be the best durable solution, since it permits refugees to re-integrate into familiar surroundings and culture. Many refugees repatriate on their own, but when movements are planned and organized UNHCR plays a key role in ensuring that returnees have accurate information about conditions in their former homeland, that the individuals are moving voluntarily, and that their human rights will be protected. UNHCR also has a role to play in monitoring their treatment after return, and in assisting returnees to re-establish themselves. This assistance includes, depending on the circumstances, providing returnees with transit centres, grants, food, housing materials and agricultural implements to assist them in their initial year of return.

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Whether a country to which refugees initially flee can ultimately integrate them into its economic and social fabric depends on a variety of factors: the number of refugees, the economic and demographic structure of the country, the nature of its society (including racial and religious differences), the political and security situation, and the environmental impact of the newcomers.

Local integration can have benefits for the refugees, UNHCR and the host country. The establishment of refugee camps may be essential for emergency care, but ongoing camps often act as a disincentive to longer-term economic self-sufficiency, and refugees' resulting pride and self-respect. Camps are also very costly to operate year after year; thus, even partial self-sufficiency lightens the load on UNHCR. From the point of view of the host country, money spent on self-sufficiency projects also aids the country generally.

### **c. Resettlement outside the Region**

In some situations where repatriation is impossible and countries of first asylum are unwilling or unable to offer continuing protection to refugees, resettlement, typically in developed Western countries, may be the only option available. Its use is circumscribed,



however, by the availability of resettlement places and by the financial requirements of sponsorship. For example, each of the approximately 13,000 government-sponsored refugees that Canada is prepared to admit yearly (apart from privately-sponsored refugees) costs an average of \$10,000 to support and resettle in the country.

The Convention itself does not place any duty on countries to resettle refugees, although one clause of the Preamble does urge that states recognize the importance of an international approach to refugee problems. The largest resettlement movement in the post-war period has been that of the Indochinese refugees, that took place from the mid-1970s onward.

## **OTHER ORGANIZATIONS**

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In addition to international organizations, non-governmental organizations in various countries assist in the settlement of refugees and, particularly in Western countries, play an important advocacy role in asserting refugee rights, particularly when these appear to conflict with the interests of states as perceived by their governments. Such organizations can also be effective advocates of the rights of individual refugees who appear to have been treated unfairly or whose refugee claims appear to have been incorrectly assessed.

## **THE ROLE OF INDIVIDUAL STATES IN PROTECTING REFUGEES' HUMAN RIGHTS**

It is an important, if self-evident, fact that refugees flee from and to individual countries, and are sometimes resettled in still others. UNHCR has no independent authority to enter any state, even to monitor or assist in refugee camps, without the permission of the country in question. Individual states contribute to the protection of refugees' human rights in three main ways: through economic assistance, resettlement, and protection against *refoulement*.

### **A. Economic Assistance**

Without financial assistance, many countries of first asylum, most of which are in the Third World, would be unable to shoulder their burdens, particularly where there have been mass influxes of refugees. Thus, financial assistance to UNHCR and to other humanitarian agencies is essential to enable them to deliver emergency aid and longer-term protection. Donations for food aid are also important.

### **B. Resettlement**

As discussed above, resettlement in countries out of the region that generated the refugees is the least preferred durable solution, but is nevertheless sometimes unavoidable. The primary countries of resettlement in terms of actual numbers accepted are the United States, Canada and Australia, but other countries also share the burden, with some concentrating on the hard-to-place refugees, such as the disabled. As noted, the largest single resettlement effort in the last 40 years was that for Indochinese refugees.

It should be noted that providing resettlement opportunities for refugees does not threaten states' interests as do spontaneous arrivals. States retain full sovereign rights on whether or not to admit refugees from abroad, on which people to admit, and on how many. They may select refugees on the basis of who will best settle in the country (as does Canada), or according to other criteria, as they wish. Spontaneous arrivals, on the other hand, prevent the state from exercising some of those choices. The problems that this poses will be discussed below.

### **C. Protection Against *Refoulement***

In addition to economic assistance and the provision of resettlement opportunities, a state's most important duty is to ensure that individuals are not forcibly returned to countries where they claim to have a well-founded fear of persecution. This protection can be temporary or long-term but it exists independently of the Convention as part of customary international law. The Convention itself is silent about procedures to be used to determine the *bona fides* of a refugee claim. Indeed, many signatories have no formal procedures at all, relying instead on



UNHCR. Others, primarily Western countries, have developed administrative or quasi-judicial procedures to determine whether a claim should be recognized.

Refugee recognition is often bound up with politics and state requirements. Thus, it should not be surprising that overall refugee recognition rates vary from country to country, or that certain nationalities will enjoy more success than others in having their claims recognized.

#### **D. International Agreements**

Since 1988, there have been developments in Europe with regard to multilateral agreements for assessing the responsibility of states to determine refugee claims. Specifically, these agreements are the *Dublin Convention* and the *Schengen Agreement*, whose terms are briefly discussed below.

The *Dublin Convention* (the *Convention Determining the State Responsible for Examining Applications for Asylum lodged in one of the Member States of the European Communities*, also called the *Convention on Asylum* or the *Asylum Convention*) was signed in June 1990 by all EC states except Denmark, which signed a year later. It is not yet in force, and will not come into force until three months after it has been ratified by the twelfth member state to do so.<sup>(1)</sup>

The Convention does not attempt in any way to harmonize the asylum procedures of its signatories or establish standards for the adjudication of claims; nor does it establish any international body to decide asylum claims. It is concerned primarily with establishing criteria by which signatory states may identify which of them is responsible for deciding -- by applying its own national legislation -- a claim to refugee status made within one of the member states. As is stated in the Preamble to the Convention:

Aware of the need, in pursuit of this objective [the abolition of internal frontiers], to take measures to avoid any situations arising, with the result that applicants for asylum are left in doubt for too long as regards the likely outcome of their applications and concerned to provide all applicants for asylum with a guarantee

---

(1) Canada has indicated its intention to seek a "parallel" accord to the *Dublin Convention*.

that their applications will be examined by one of the Member States and to ensure that applicants for asylum are not referred successively from one Member State to another without any of these States acknowledging itself to be competent to examine the application of asylum[.]

The primary rule is that the state where the claimant first arrives must hear the claim if the claimant arrived "irregularly" (i.e., without documents), unless he or she had been living in another member state for at least six months prior to that time. Applicants cannot make a claim in one state, then move to another and claim again (unless the second state agrees to hear the claim). Thus, asylum shopping is to be deterred. Exceptions to the "country of first arrival" are made for applicants who have close family already recognized in a country and applicants in possession of valid residence permits. Member states have a six-month period within which they may ask another state to take care of the application.

The Convention also requires mutual exchanges of information relating to asylum practices and statistical data on asylum claims, and permits the exchange of general information on trends in asylum applications and country of origin profiles. Member states may also request information relating to individual cases for the purposes of determining responsibility for the claim or deciding the claim itself. Such information is restricted to factual matters. Details relating to the grounds of an asylum request and any decisions made may be released only with the consent of the asylum seekers.

The *Schengen Agreement and Supplementary Agreement (Convention on the Application of the Schengen Agreement of 14 June 1985 relating to the Gradual Suppression of Controls at Common Frontiers, between the Governments of States Members of the Benelux Economic Union, the Federal Republic of Germany and the French Republic)*, was agreed to in principle in 1985 by Belgium, France, West Germany, the Netherlands and Luxembourg. Since then, Italy, Spain and Portugal have also joined. It has not yet been ratified by sufficient states to be in force, but that is expected to happen by the end of 1992.

The Agreement covers more than just asylum policy; it deals with common border controls, common visa policies and so on. Like the *Dublin Convention*, the agreement provides that asylum seekers are to be dealt with under the domestic legislation of the signatory states. The state first entered has the primary responsibility for determining the claims of individuals

who lack documents and a six-month rule applies (as in the *Dublin Convention*) for determining which state is responsible. Exceptions are made for applicants with close family already recognized as refugees by a state. The Agreement also provides for the exchange of data and information.

## **CURRENT THREATS TO THE HUMAN RIGHTS OF REFUGEES**

Many of the threats to the human rights of refugees are those that have existed from time immemorial -- repressive regimes, civil conflict, ethnic clashes, poverty, and so on. It is a truism to state that the world needs to pay more attention to these root causes of refugee movements. Meanwhile, refugees are with us now, and will be in the future. They will continue to be dealt with by the laws, institutions, and state practices that constitute the loose refugee protection "system" described above. In the past decade, however, a number of additional pressures have been placed upon the system and its component parts.

### **A. Migratory Pressures on Western Countries**

In the last decade, European and North American countries have increasingly experienced increases in the numbers of individuals seeking asylum. In Canada, a system designed to handle small numbers of claimants was flooded in the 1980s, resulting in a backlog of some 95,000 claims by the end of 1988. (Currently, over 30,000 new claims per year are being received.)

Large influxes put significant pressures on determination systems designed to handle far fewer applicants. Moreover, many of those seeking asylum were perceived as migrants seeking immigration opportunities, rather than *bona fide* refugees. Others were seeking shelter for reasons relating to war or civil strife and therefore did not fall under the strict definition of refugee found in the Convention. Moreover, the higher the number of claimants, the more difficult it became to separate valid from invalid claims in an acceptable period of time.



Arrivals of refugee claimants are described as "spontaneous" in the sense that they occur outside normal immigration channels and in an unpredictable fashion. Even apart from the practical difficulties of dealing with relatively large numbers, such movements affect the ability of a sovereign state to control its borders and are seen as threatening on that ground alone. Even immigrant-receiving countries such as Canada became very concerned about control issues, particularly since it was clear that public support for a generous refugee program depended on its being controlled, with only genuine refugees being assisted.

In response to these migratory pressures, Western countries began in the 1980s to tighten up their determination systems and to introduce controls designed to deter spontaneous arrivals. Methods included more visa restrictions, fines on airlines that carried undocumented passengers, returning claimants to third countries, detention of claimants, and restricted rights to employment. Further measures also included the development of the multilateral agreements discussed above.

It should be realized that only a very small percentage of refugees ever leave their own region to claim asylum in the West. On the other hand, refugee determination systems in developed countries are individualized, bureaucratic, often lengthy, and very costly. Further, refugees become entitled to benefit from extensive social support systems paid for by taxpayers.

Indeed, although greatly increased migration has been discussed in terms of the recent restrictive response of governments and the threat this presents to genuine refugees, there is no doubt that spontaneous arrivals in the West consume a disproportionate share of the world's resources devoted to refugees: states spend many times the amount of the entire budget of UNHCR on spontaneous arrivals.<sup>(2)</sup>

Furthermore, it may be argued that those who arrive spontaneously in the West are not representative of the refugee population as a whole, being largely male, young, and resourceful enough to manipulate visa and control systems in order to travel to the West. Meanwhile, a disproportionate number of residents of refugee camps are children and women.

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(2) Countries in Western Europe and North America will spend approximately \$7.9 billion this year on their refugee determination systems, according to Peter Harder, Associate Deputy Minister of Immigration for Canada, speaking to the Commons Legislative Committee studying Bill C-86, An Act to Amend the Immigration Act. UNCHR's annual budget is currently approximately \$1.2 billion.

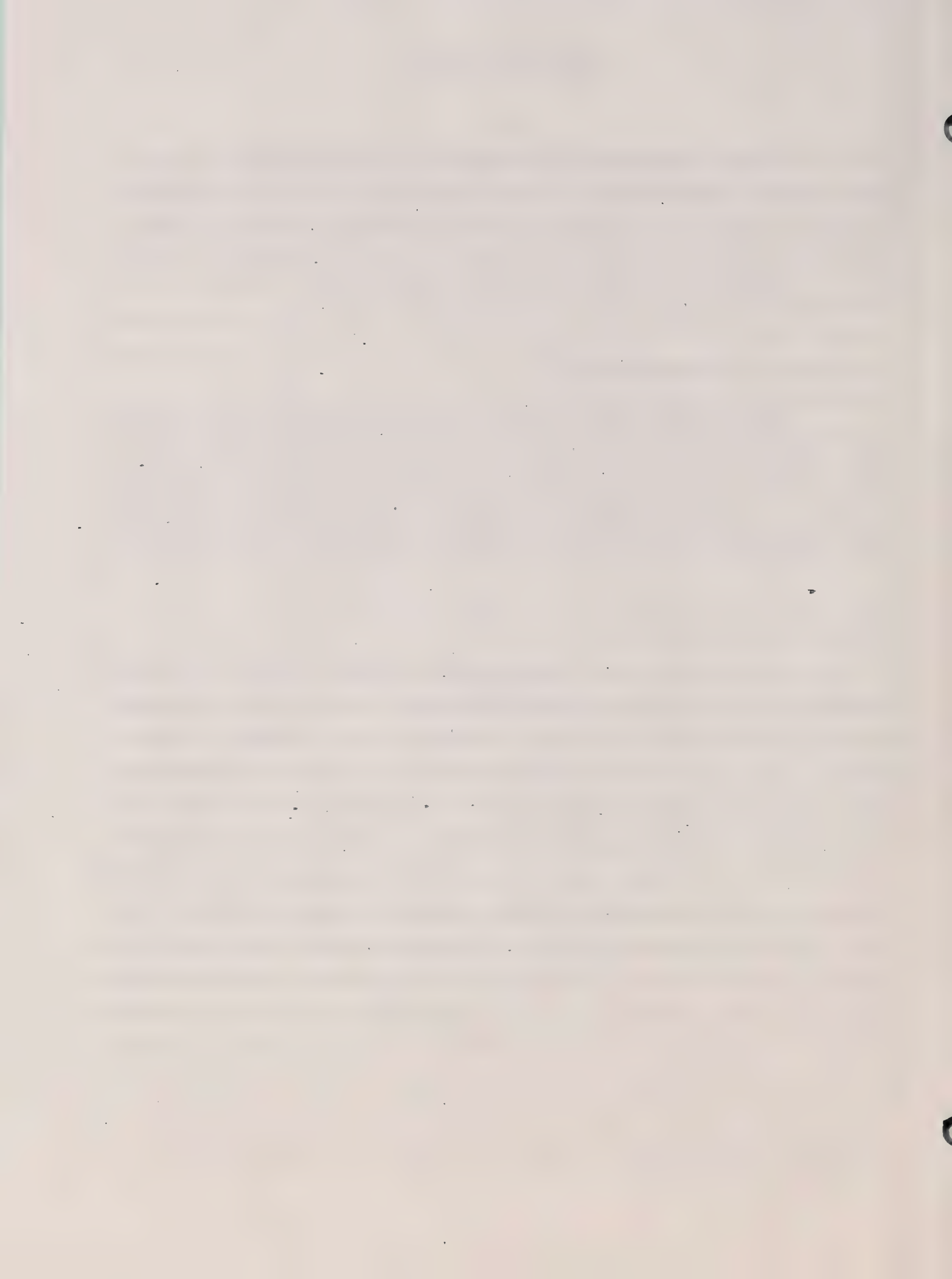
Despite these contradictions and difficulties, the concept of asylum remains at the heart of any system of refugee protection. In all Western countries, the challenge of the 1990s will continue to be how to coordinate responses and streamline refugee determination systems without sacrificing fairness and reliability, and how to institute appropriate border controls without impairing the ability of individuals in genuine need to find refuge.

### **B. Shortage of International Resources**

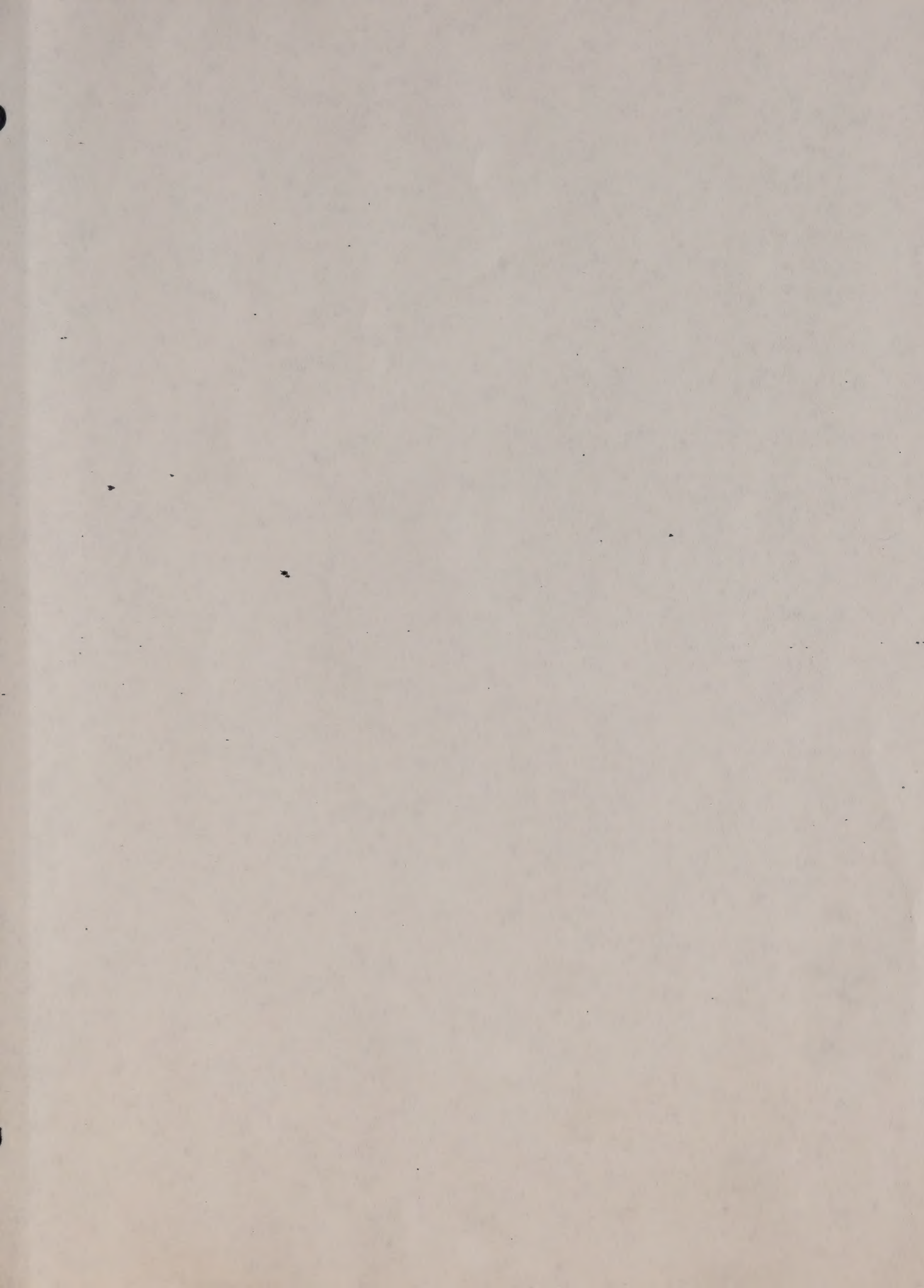
In 1990, as the number of refugees in the world continued to mount, UNHCR faced a financial crisis, with needs projected to exceed receipts by some US\$130 million. Budget cuts and an appeal to the international community ultimately resolved the crisis for the time being, but not before a number of core programs had been curtailed, impairing the organization's ability to provide assistance and solutions for refugees, particularly in Africa.

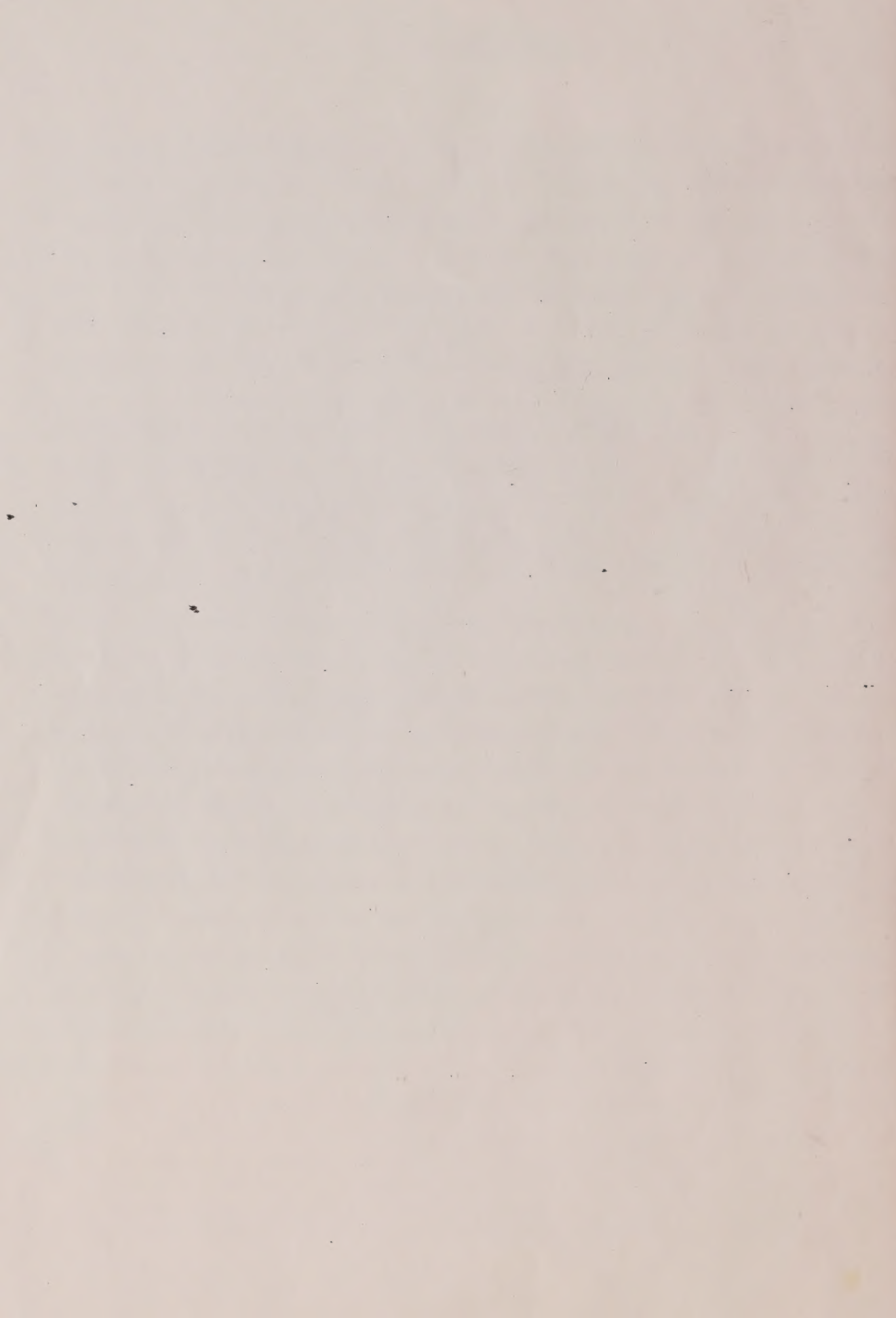
### **C. A Changing World**

In the 40 years since UNHCR came into existence, the world has changed dramatically. The number of refugees has steadily increased, particularly in the last ten years, and, while a number of refugee problems have been solved, many more show no signs of resolution. Indeed, events in the former Yugoslavia brought immense pressures on international organizations as well as on European states in which the displaced sought refuge. Many of the world's refugees now originate in the Third World and do not necessarily fit the Convention's narrow definition of "refugee"; mass movements also defy the Convention's implied individualized approach to persecution. Moreover, as noted above, large scale migration from South to North, and potentially in significant numbers from East to West, threatens the institution of asylum in the West. It will be continually necessary to adapt to these changes and respond to the current pressures on the system. The UNHCR's Executive Committee has established a working group to study all aspects of refugee protection today. No one, however, is suggesting that there are easy answers to these questions.







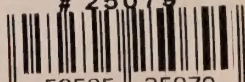


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